

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: : Confirmation No. 9696
: :
Jagannathan Shiva Shankar, et al. : Examiner: Phuoc H. Nguyen
: :
Serial No.: 10/651,590 : Group Art Unit No. 2143
: :
Filed: August 29, 2003 : :
: :
For: METHOD AND APPARATUS FOR : :
MEASURING HEALTH AND : :
PERFORMANCE OF A MESSAGING : :
SYSTEM : :

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO WITHDRAW APPLICATION FROM ISSUE (37 C.F.R. § 1.313(c)(2))

Sir:

Applicant hereby respectfully petitions the Commissioner to withdraw the captioned application from issue.

The Office mailed a Notice of Allowance on January 23, 2008. Applicant filed an Information Disclosure Statement on April 1, 2008 and submitted the issue fee payment by mail on April 22, 2008. (Applicant could not submit the issue fee using EFS-Web, because USPTO systems apparently have marked the case as a Plant Patent case, and EFS-Web would only permit the applicant to select or pay a Plant Patent issue fee, which is incorrect.) A Request for Continued Examination (RCE) and RCE fee are concurrently submitted herewith.

The present petition is made to allow time for the Examiner to consider the RCE and the IDS of April 1, 2008. The Office may grant this petition under 37 C.F.R. 1.313(c)(2), which expressly authorizes withdrawal from issue to consider an RCE.

Adjustment date: 04/25/2008 CKHLOK
04/23/2008 INTEFSW 00009298 501302 10651590
01 FC:1464 130.00 CR
02 FC:1801 810.00 CR

Based on the foregoing, it is respectfully submitted that applicant has shown good and sufficient reasons why it is necessary to withdraw the application from issue as requested.

The petition fee is submitted concurrently herewith. The Commissioner is hereby authorized to charge any applicable fee to our Deposit Account No. 50-1302.

Respectfully submitted,

HICKMAN PALERMO TRUONG & BECKER LLP

Dated: April 23, 2008

/ChristopherJPalermo#42056/

Christopher J. Palermo

Reg. No. 42,056

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REQUEST FOR CONTINUED EXAMINATION(RCE)TRANSMITTAL **(Submitted Only via EFS-Web)**

Application Number	10651590	Filing Date	2003-08-29	Docket Number (if applicable)	50325-0788	Art Unit	2143
First Named Inventor	J. S. SHANKAR			Examiner Name	NGUYEN, PHUOC		

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.
 Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. The Instruction Sheet for this form is located at WWW.USPTO.GOV

SUBMISSION REQUIRED UNDER 37 CFR 1.114

Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

☒ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____

☒ Other Information Disclosure Statement (IDS), with disclosure of Office actions in related case(s), filed 1 April 2008.
Please note that on 22 April 2008 applicant filed the Issue Fee by mail. Case appears to be coded as Plant pat.

☐ Enclosed

☐ Amendment/Reply

☐ Information Disclosure Statement (IDS)

☐ Affidavit(s)/ Declaration(s)

☐ Other _____

MISCELLANEOUS

☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of months _____
 (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

☐ Other _____

FEES

The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

☒ The Director is hereby authorized to charge any underpayment of fees, or credit any overpayments, to
 Deposit Account No 501302

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

☒ Patent Practitioner Signature

☐ Applicant Signature

Signature of Registered U.S. Patent Practitioner			
Signature	/ChristopherJPalermo#42056/	Date (YYYY-MM-DD)	2008-04-23
Name	Christopher J. Palermo	Registration Number	42056

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND										
1 Date of Request: <u>04/24/08</u>		2 Serial/Patent # <u>10/651,590</u>								
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT						
	Filing			\$						
	Amendment			\$						
	Extension of Time			\$						
	Notice of Appeal/Appeal			\$						
X	Petition	wfee	04/23/08	\$ 130.00						
	Issue			\$						
	Cert of Correction/Terminal Disc.			\$						
	Maintenance			\$						
	Assignment			\$						
X	Other RCE filing fee	wfee	04/23/08	\$ 810.00						
		7 TOTAL AMOUNT OF REFUND		\$ 940.00						
10 REASON:		8 TO BE REFUNDED BY:								
	Overpayment	Treasury Check								
	Duplicate Payment	Credit Deposit A/C #:								
	No Fee Due (Explanation):	9 <table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px; text-align: center;">--</td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td></tr></table>					--			
		--								
11 REFUND REQUESTED BY:										
TYPED/PRINTED NAME: <u>Sherry D. Brinkley</u>		TITLE: <u>Petitions Examiner</u>								
SIGNATURE: <u><i>Sherry D. Brinkley</i></u>		PHONE: <u>2-3204</u>								
OFFICE: <u>Petitions</u>										
***** THIS SPACE RESERVED FOR FINANCE USE ONLY: *****										
APPROVED: <u><i>Chad</i></u>		DATE: <u>4/25/08</u>								

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to: